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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,954	07/22/2002	Stephen Arkinstall	ARKINSTALL=1	4903
1444 7590 08/16/2007 BROWDY AND NEIMARK, P.L.L.C. 624 NINTH STREET, NW SUITE 300 WASHINGTON, DC 20001-5303			EXAMINER COLEMAN, BRENDA LIBBY	
			ART UNIT 1624	PAPER NUMBER
			MAIL DATE 08/16/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/070,954	<b>Applicant(s)</b> ARKINSTALL ET AL.	
	<b>Examiner</b> Brenda L. Coleman	<b>Art Unit</b> 1624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-12,20-22,27-31,35 and 36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-12,20-22,27-31,35 and 36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                            |                                                                                         |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                           | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

### **DETAILED ACTION**

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Claims 1-3, 5-12, 20-22, 27-31 and 35-36 are pending in the application.

This action is in response to applicant's amendment filed July 16, 2007. Claims 1-3 and 9-11 have been amended.

### ***Response to Amendment***

Applicant's arguments filed July 16, 2007 have been fully considered with the following effect:

1. With regards to the provisional obviousness-type double patenting rejection of claims 1-3 and 5-41 labeled paragraph 3 over copending Application No. 10/381,200 maintained in the last office action, the applicants requested that this rejection be held in abeyance at this time.

Claims 1-3, 5-12, 20-22, 27-31, 35 and 36 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-16 of copending Application No. 10/381,200, for reasons of record and stated above.

2. With regards to the provisional obviousness-type double patenting rejection of claims 1-3 and 5-41 labeled paragraph 4 over copending Application No. 10/381,665

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maintained in the last office action, the applicants requested that this rejection be held in abeyance at this time.

Claims 1-3, 5-12, 20-22, 27-31, 35 and 36 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-16 of copending Application No, 10/381,665, for reasons of record and stated above.

3. With regards to the 35 USC § 112, second paragraph rejection of claim 36, labeled paragraph 6h) maintained in the last office action, the applicant's amendments and arguments have been fully considered, however they were not found persuasive.

h) The applicants' stated that claim 9 has been amended to recite that L<sup>1</sup> is a triazole ring, which is fused with an unsubstituted or substituted aryl or heteroaryl and that Claim 10 depends from claim 9, and claim 10 does not limit the definition of L<sup>1</sup> and L<sup>2</sup> thus Claim 10 provides antecedent basis for this limitation in Claim 36. However, this is not so. The definition of L<sup>1</sup> and L<sup>2</sup> in claim 10 is further limited and the definition of L<sup>1</sup> never embraces the additional fusion of an unsubstituted or substituted aryl ring.

Claim 36 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, for reasons of record and stated above.

In view of the amendment dated July 16, 2007, the following new grounds of rejection apply:

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 9 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The addition of "L<sup>1</sup> is a triazole ring fused with an unsubstituted or substituted aryl" to claim 9 is not described in the specification with respect to formula (I).

Applicant is required to cancel the new matter in the reply to this Office action.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

5. Claims 10, 11, 21 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The following reason(s) apply:

- a) Claim 10 recites the limitation "5-memebered cyclic group containing 3 heteroatoms" in the definition of L<sup>1</sup>. There is insufficient antecedent basis for this limitation in the claim.

- b) Claim 11 recites the limitation "acetamide" in the nomenclature of the last species on page 11 of the amendment filed July 16, 2007. There is insufficient antecedent basis for this limitation in the claim.
- c) Claim 11 recites the limitation "acetamide" in the nomenclature of the 6<sup>th</sup> species on page 13 of the amendment filed July 16, 2007. There is insufficient antecedent basis for this limitation in the claim.
- d) Claim 11 is vague and indefinite in that it is not known what is meant by the 6<sup>th</sup> species on page 20 of the amendment filed July 16, 2007, which is a duplicate of the 4<sup>th</sup> species on page 20 of the amendment filed July 16, 2007.
- e) Claim 11 is vague and indefinite in that it is not known what is meant by the 9<sup>th</sup> species on page 20 of the amendment filed July 16, 2007, which is a duplicate of the 5<sup>th</sup> species on page 20 of the amendment filed July 16, 2007.
- f) Claim 11 is vague and indefinite in that it is not known what is meant by the 10<sup>th</sup> species on page 20 of the amendment filed July 16, 2007, which is a duplicate of the 4<sup>th</sup> species on page 20 of the amendment filed July 16, 2007.
- g) Claim 11 is vague and indefinite in that it is not known what is meant by the 1<sup>st</sup> species on page 21 of the amendment filed July 16, 2007, which is a duplicate of the 7<sup>th</sup> species on page 20 of the amendment filed July 16, 2007.
- h) Claim 11 is vague and indefinite in that it is not known what is meant by the 2<sup>nd</sup> species on page 21 of the amendment filed July 16, 2007, which is a duplicate of the 8<sup>th</sup> species on page 20 of the amendment filed July 16, 2007.

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i) Claim 11 is vague and indefinite in that it is not known what is meant by the 1<sup>st</sup> species on page 32 of the amendment filed July 16, 2007, which is a duplicate of the 5<sup>th</sup> species on page 25 of the amendment filed July 16, 2007.

j) Claim 11 is vague and indefinite in that it is not known what is meant by the 2<sup>nd</sup> species on page 32 of the amendment filed July 16, 2007, which is a duplicate of the 6<sup>th</sup> species on page 25 of the amendment filed July 16, 2007.

k) Claim 21 is vague and indefinite in that it is not known what is meant by the variable  $n'$  which is not defined within the claim.

l) Claim 21 is vague and indefinite in that it is not known what is meant by the definition of  $n$  where there is no variable  $n$  within the claim.

m) Claim 21 is vague and indefinite in that it is not known what is meant by the reference to the definition of the variables  $(R^6)_n$ ,  $L^1$  and  $L^2$ , which are stated as defined in claim 1, however, there is no definition for the variables  $(R^6)_n$ ,  $L^1$  and  $L^2$  in claim 1.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brenda L. Coleman whose telephone number is 571-272-0665. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson can be reached on 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Brenda L. Coleman  
Primary Examiner Art Unit 1624  
Tuesday, August 14, 2007